

Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	<p data-bbox="345 321 805 388">motion picture "prequel" to <i>The Original Series</i>.</p> <p data-bbox="345 409 805 451"><b><u>Supporting Evidence</u></b></p> <p data-bbox="345 472 805 919">Grossman Decl., ¶ 16, Ex. A (Peters tr. at 143:13-145:7), ¶ 35, Ex. V (blueprints for the soundstage at Paramount Studios that was used for Star Trek); ¶ 36, Ex. A (145:12-147:10), Ex. W (blueprints), ¶ 32, Ex. C (Gossett tr. at 47:22-48:6); ¶ 15, Ex. A (Peters tr. at 371:13-372:9), Ex. J (Mr. Gossett email exchange with Mr. Peters) ¶ 17, Ex. B (Burnett tr. at 202:12-203:4).</p>	<p data-bbox="813 321 1539 352">Grossman Decl. filed concurrently herewith</p>
127.	<p data-bbox="345 930 805 1245">The element of stardates was first used in the second pilot of <i>The Original Series</i> "Where No Man Has Gone Before" in 1966 (Reg. No. PA-58-303), and was subsequently used in <i>The Next Generation</i>, <i>Deep Space Nine</i>, <i>Voyager</i>, and every Star Trek Motion Picture.</p> <p data-bbox="345 1266 805 1308"><b><u>Supporting Evidence</u></b></p> <p data-bbox="345 1329 805 1371">Van Citters Decl., ¶ 39.</p>	<p data-bbox="813 930 1539 961">Disputed.</p> <p data-bbox="813 982 1539 1276">Defendants' system of stardates is merely the year followed by a decimal point and a number to indicate the month. Defendants do not know how Stardates were measured in Plaintiffs' Works, as Plaintiffs have never provided a formula. ECF No. 90-10, 94-3, Peters Decl., ¶ 7; ECF No. 75-19, Peters Decl., Ex. 1 (<i>Prelude to Axanar</i>). See Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>
128.	<p data-bbox="345 1381 805 1434">Defendant Peters conceded that</p> <div data-bbox="345 1434 805 1623" style="background-color: black; width: 100%; height: 100%;"></div> <p data-bbox="345 1644 805 1728">Grossman Decl., ¶ 26, Ex. A (Peters tr. at 82:6-85:12).</p>	<p data-bbox="813 1381 1539 1434">Undisputed. See Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
129.	<p data-bbox="345 1738 805 1978">The sequence of events of Defendants' works is taken from the Star Trek Copyrighted Works – the events depicted and discussed therein take place in and around the Battle of Axanar, as described both in</p>	<p data-bbox="813 1738 1539 1917">Disputed that the sequence of events is taken from the Star Trek Copyrighted Works, as the sequence of events and timing is original. ECF No. 75-20, Peters Decl., Ex. 1 (<i>Prelude to Axanar</i>). See Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>

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	<p><i>The Original Series</i> and in greater detail in <i>The Four Years War</i>.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Van Citters Decl., ¶ 60.</p>	
130.	<p>Defendants' works take place in the same settings as the Star Trek Copyrighted Works as they are set in alien star systems created by Plaintiffs, on spaceships belonging to the United Federation of Planets, on Klingon battlecruisers fighting for the Klingon Empire, and on planets such as Qo'noS, Vulcan and Axanar.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Van Citters Decl., ¶ 62.</p>	<p>Undisputed that the works are set in the same universe, but disputed to the extent the time frame, aesthetics and other elements are the same. ECF No. 75-20, Peters Decl., Ex. 1 (<i>Prelude to Axanar</i>). <i>See also</i> Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>
131.	<p>Defendants' works use the protected characters embodied by the U.S.S. Enterprise and Klingon starships.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Van Citters Decl., ¶¶ 5, 33-36, 59, 62.</p>	<p>Disputed that any used by Defendants is "protected" which calls for a legal conclusion. <i>See also</i> Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>
132.	<p>Defendants appropriated the mood and theme from the Star Trek Copyrighted Works, attempting to recreate the drama between the Federation and the Klingon Empire in a military space drama.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Van Citters Decl., ¶¶ 55, 56.</p>	<p>Disputed.</p> <p>The mood and themes of <i>Prelude to Axanar</i> and <i>Axanar</i> have never been seen in Plaintiffs' Works. ECF No. 90-10, 94-3, Peters Decl., ¶ 6; ECF No. 75-19 Peters Decl., Ex. 1 (<i>Prelude to Axanar</i>). <i>See also</i> Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>
133.	<p>The second Star Trek motion picture, <i>The Wrath of Khan</i>, was a derivative work that expanded upon one of the episodes of <i>The Original Series</i> which featured a villain named Khan.</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>

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	<p><b><u>Supporting Evidence</u></b></p> <p>Van Citters Decl., ¶ 20</p>	
134.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 73, Ex. A (Peters tr. at 70:24)</p>	<p>Undisputed that Defendants have raised over a million dollars from Axanar donors. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
135.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 73, Ex. A (Peters tr. at 190)</p>	<p>[REDACTED]</p> <p>Grossman Decl. filed concurrently herewith</p>
136.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 189:2-23), Ex. SS (financial summary at AX031122-A)</p>	<p>Disputed.</p> <p>[REDACTED] 4-5, (Second Financial Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., ¶¶ 14-15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
137.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 61, Ex. B (Burnett tr. at 61:24-62:11); ¶ 74, Ex. A (Peters tr. at 122:21-25), Ex. SS (financial summary at AX030960, AX030959, AX031046, AX031128)</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
138.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 61, Ex. B (Burnett tr. at 62:12-18; 93:23-25; 140:21-141:3); ¶ 70 (Kingsbury tr. at 39:22-</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>

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	41:9); ¶ 74, Ex. SS (financial summary at AX030958-AX030964)	
139.	<p>Defendants [REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 65:7-18; 193:22-194:18), Ex. SS (financial summary at AX031058-AX031059).</p> <p>Grossman Decl., ¶ 63, Ex. A (Peters tr. at 353:8-13; 487:21-488:8; 225:12-227:20), Ex. NN (lease).</p> <p>Grossman Decl., ¶ 62, Ex. C (Gossett tr. at 35:11-36:7). Oki Decl., Exs. 1-2 (Plaintiffs' interrogatory responses).</p>	<p>[REDACTED]</p> <p>¶ 13, Ex. A (Peters Tr., Vol. II at 487:21-488:8). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
140.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 209:15-212:22), Ex. SS (financial summary at AX031019-</p>	<p>Disputed.</p> <p>[REDACTED]</p> <p>2</p> <p>(Second Financial Summary, AX035571-AX035736); ECF Nos. 90-10, 94-3, Peters Decl., ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
141.	<p>[REDACTED]</p>	<p>Disputed.</p> <p>[REDACTED]</p> <p>2</p> <p>(Second Financial Summary, AX035571-AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>



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	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 195:21-198:1; 213:5-10), Ex. SS (financial summary at AX031051-AX031055)</p>	
142.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 201:6-204:7), Ex. SS (financial summary at AX030967-AX [REDACTED]).</p>	<p>Disputed.</p> <p>[REDACTED]</p> <p>ECF Nos. 90-12, 94-5, Peters Decl., ¶ 2, Ex. 2 (Second Financial Summary, AX035571-AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
143.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 72, Ex. D (Kingsbury tr. at 15:21-24; 18:7-11; 141:4-15); ¶ 71, Ex. A (Peters tr.</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
144.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 204:11-16, 205:3-16), Ex. SS (financial summary at AX030985-AX030986</p>	<p>[REDACTED]</p> <p>ECF Nos. 90-12, 94-5, Peters Decl., ¶ 2, Ex. 2 (Second Financial Summary, AX035571-AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
145.	<p>[REDACTED]</p>	<p>Disputed.</p> <p>[REDACTED]</p>

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	<p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 203:25-204:1); Ex. SS (financial summary at AX030981-AX030983)</p>	<p>ECF Nos. 90-12, 94-5, Peters Decl., (Second Financial Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
146.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 217:6-15), Ex. SS (financial summary at AX030986)</p>	<p>Disputed.</p> <p>[REDACTED]</p> <p>(Second Financial Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
147.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 205:14-16), Ex. SS (financial summary at AX030967-A)</p>	<p>Disputed.</p> <p>[REDACTED]</p> <p>(Second Financial Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
148.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 205:20-207:9), Ex. SS (financial summary at AX031098)</p>	<p>Disputed.</p> <p>[REDACTED] x. 2</p> <p>(Second Financial Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
149.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 207:10-12), Ex. SS (financial summary at AX031098)</p>	<p>Disputed.</p> <p>[REDACTED] ECF x. 2</p> <p>(Second Financial Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
150.	<p>[REDACTED]</p>	<p>[REDACTED] 2 (Second Financial</p>

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	<p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 74, Ex. A (Peters tr. at 208:2-16), Ex. SS (financial summary at AX031009-AX031010).</p>	<p>Summary, AX035571- AX035736); ECF Nos. 90-10, 94-3, Peters Decl., at ¶ 15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
151.	<p>In raising money for the Axanar Works, Mr. Peters stated, "<b>Axanar</b> is the first fully-professional, independent Star Trek film. While some may call it a 'fan film' as we are not licensed by CBS, Axanar has professionals working in front and behind the camera, with a fully-professional crew--many of whom have worked on Star Trek itself--who ensure Axanar will be the quality of Star Trek that all fans want to see."</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 48, Ex. A (Peters tr. at 92:19-94:1); Ex. CC (Indiegogo site).</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
152.	<p>On the Kickstarter page for Axanar, Mr. Peters also stated, "<b>Axanar</b> is the independent Star Trek film which proves that a feature-quality Star Trek film can be made on a small budget...<b>Axanar</b> takes place 21 years before the events of "Where no Man Has Gone Before". It tells the story of Garth of Izar, the legendary Starfleet captain who is Captain Kirk's hero and the role model for a generation of Starfleet officers. Garth charted more planets than any other Captain and was the hero of the Battle of Axanar. His exploits are required reading at Starfleet Academy. This is the story of Garth and his crew during the Four Years War, the war with</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>

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	<p>the Klingon Empire that almost tore the Federation apart..." The Kickstarter page also states "This is Star Trek."</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 54, Ex HHH.</p>	
153.	<p>Defendants [REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 39, Ex. B (Burnett tr. at 55:4-14, 58:10-22, 59:11-22), ¶ 28, Ex. Q (April 2014 email), Ex. A (Peters tr. at 376:16-377:11), Ex. C (Gossett tr. at 50:14-52:21).</p>	Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
154.	<p>Peters repeatedly referenced the Axanar Works as a professional production.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 52, Ex. A (Peters tr. at 91:11-92:7), Ex. GG (statement made by Alec Peters in an interview), ¶ 48, Ex. A (Peters tr. at 92:19-94:1), Ex. CC (Indiegogo fundraising page), ¶ 54, Ex. A (Peters tr. at 97:14-98:22), Ex. HH (screenshot from Defendants' Kickstarter fundraising page), ¶ 49, Ex. A (Peters tr. at 99:10-100:15), Ex. DD (Defendants' Indiegogo fundraising page), ¶ 50, Ex. A (Peters tr. at 108:6-</p>	Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith



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	<p>109:12), Ex. EE (Facebook post by Alec Peters), ¶ 51, Ex. A (Peters tr. at 109:16-110:2), Ex. FF (Post on the Axanar Facebook page), ¶ 53 (Peters tr. at 133:16-143:5; 134:10-143:5; 135:11-136:2; 137:13-138:13; 138:21-140:2; 140:19-141:3; 141:16-142:22), Ex. ZZ (transcript of podcasts), ¶ 11, Ex. A (Peters tr. at 170:22-171:3), Ex. G (printout from Axanarproductions.com), ¶ 56, Ex. A Peters tr. at 124:8-127:15), Ex. JJ (press kit).</p>	
155.	<p>Peters repeatedly stated that his production was not to be called a "fan film."</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 48, Ex. A (Peters tr. at 92:19-94:1), Ex. CC (Indiegogo fundraising page), ¶ 49, Ex. A (Peters tr. at 99:10-101:10), Ex. DD (Defendants' Indiegogo fundraising page), ¶ 50, Ex. A (Peters tr. at 108:6-109:12), Ex. EE (Facebook post by Alec Peters), ¶ 51, Ex. A (Peters tr. at 109:16-110:2), Ex. FF (Post on the Axanar Facebook page), ¶ 53 (Peters tr. at 133:16-143:5; 134:10-143:5; 137:13-138:13; 138:21-140:2; 140:19-141:5; 141:16-142:22), Ex. ZZ (transcript of podcasts), ¶ 55, Ex. A (Peters tr. at 106:6-107:7), Ex. II (tweet) ¶ 57, Ex. A (Peters tr. at 349:18-24), Ex. KK (Peters email to Doug Drexler).</p>	<p>Disputed.</p> <p>There were many instances in which Defendants did call their works "fan films." The distinction between "fan films" and "professional" films was made only to distinguish the quality of Defendants' Works. ECF No. 90-16, Peters Decl., Ex. 6 (Press Release); ECF Nos. 90-22, 94-7 Peters Decl., Ex. 12 (Emails between Alec Peters and Morgen Schneider, AX030370-AX030372); ECF No. 90-23, Ex. 13 (Axanar Facebook Post, AX035850); ECF No. 90-24, Ex. 14 (Axanar Tweet, AX035927); ECF No. 90-21, Ex. 11 (Star Trek Fan Film Flyer, PL0000106); ECF No. 90-19, Ex. 9 (Axanar Blog Post, PL0005718-PL0005720); ECF No. 90-20, Ex. 10 (Axanar Blog Post, PL0005973-PL0005989); ECF No. 90-18, Ex. 8 (Axanar Facebook Post, PL0008222); ECF Nos. 90-26, 94-9, Ex. 16 (Email from Marian Cordry to Holly Amos and John Van Citters, PL0008689); ECF No. 90-17, Ex. 7 (Axanar Facebook Post, PL0011822); ECF Nos. 90-25, 94-8 Ex. 15 (Emails among Bill Burke, John Van Citters, and Leslie Ryan, PL0012814-PL0012816); ECF Nos. 90-15, Ex. 5 (Email from Marian Cordry to John Van Citters, PL0013502- PL0013503); ECF No. 90-14, Ex. 4 (Peters Facebook Post, PL0013517); ECF Nos. 90-11, 94-4, Ex. 1 (Axanar Annual Report, Revised, 2015, PL0013763-PL0013785); ECF No. 90-13, Ex. 3 (Emails between Alec Peters and Mallory Levitt, PL0013787-PL0013788); ECF No. 90-6,</p>


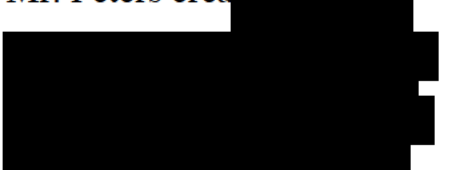
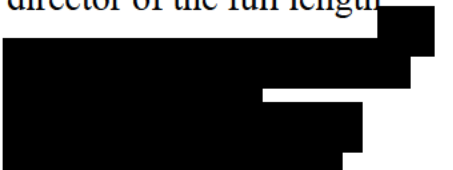
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		Ranahan Decl., ¶ 5, Ex. E (Gossett Tr. at 175:17-18). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
156.	<p>Peters stated on Reddit, "This is no fan film, this is a professional production and something the Axanar Team knows how to do."</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 52, Ex. III, Ex. A (Peters tr. at 114:6-116:19).</p>	<p>Disputed.</p> <p>There were many instances in which Defendants did call their works "fan films." The distinction between "fan films" and "professional" films was made only to distinguish the quality of Defendants' Works. ECF No. 90-16, Peters Decl., Ex. 6 (Press Release); ECF Nos. 90-22, 94-7 Peters Decl., Ex. 12 (Emails between Alec Peters and Morgen Schneider, AX030370-AX030372); ECF No. 90-23, Ex. 13 (Axanar Facebook Post, AX035850); ECF No. 90-24, Ex. 14 (Axanar Tweet, AX035927); ECF No. 90-21, Ex. 11 (Star Trek Fan Film Flyer, PL0000106); ECF No. 90-19, Ex. 9 (Axanar Blog Post, PL0005718-PL0005720); ECF No. 90-20, Ex. 10 (Axanar Blog Post, PL0005973-PL0005989); ECF No. 90-18, Ex. 8 (Axanar Facebook Post, PL0008222); ECF Nos. 90-26, 94-9, Ex. 16 (Email from Marian Cordry to Holly Amos and John Van Citters, PL0008689); ECF No. 90-17, Ex. 7 (Axanar Facebook Post, PL0011822); ECF Nos. 90-25, 94-8 Ex. 15 (Emails among Bill Burke, John Van Citters, and Leslie Ryan, PL0012814-PL0012816); ECF Nos. 90-15, Ex. 5 (Email from Marian Cordry to John Van Citters, PL0013502-PL0013503); ECF No. 90-14, Ex. 4 (Peters Facebook Post, PL0013517); ECF Nos. 90-11, 94-4, Ex. 1 (Axanar Annual Report, Revised, 2015, PL0013763-PL0013785); ECF No. 90-13, Ex. 3 (Emails between Alec Peters and Mallory Levitt, PL0013787-PL0013788); ECF No. 90-6, Ranahan Decl., ¶ 5, Ex. E (Gossett Tr. at 175:17-18). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
157.	<p>Peters stated in a podcast, "[Prelude] is not a fan film. They are going to see a fully professional production that's going to change the way people view Star Trek."</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 53, Ex. ZZ (transcript of podcasts),</p>	<p>Disputed.</p> <p>There were many instances in which Defendants did call their works "fan films." The distinction between "fan films" and "professional" films was made only to distinguish the quality of Defendants' Works. ECF No. 90-16, Peters Decl., Ex. 6 (Press Release); ECF Nos. 90-22, 94-7 Peters Decl., Ex. 12 (Emails between Alec Peters and Morgen Schneider, AX030370-AX030372);</p>



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	Ex. A (Peters tr. at 137:13-19).	ECF No. 90-23, Ex. 13 (Axanar Facebook Post, AX035850); ECF No. 90-24, Ex. 14 (Axanar Tweet, AX035927); ECF No. 90-21, Ex. 11 (Star Trek Fan Film Flyer, PL0000106); ECF No. 90-19, Ex. 9 (Axanar Blog Post, PL0005718-PL0005720); ECF No. 90-20, Ex. 10 (Axanar Blog Post, PL0005973-PL0005989); ECF No. 90-18, Ex. 8 (Axanar Facebook Post, PL0008222); ECF Nos. 90-26, 94-9, Ex. 16 (Email from Marian Cordry to Holly Amos and John Van Citters, PL0008689); ECF No. 90-17, Ex. 7 (Axanar Facebook Post, PL0011822); ECF Nos. 90-25, 94-8 Ex. 15 (Emails among Bill Burke, John Van Citters, and Leslie Ryan, PL0012814-PL0012816); ECF Nos. 90-15, Ex. 5 (Email from Marian Cordry to John Van Citters, PL0013502-PL0013503); ECF No. 90-14, Ex. 4 (Peters Facebook Post, PL0013517); ECF Nos. 90-11, 94-4, Ex. 1 (Axanar Annual Report, Revised, 2015, PL0013763-PL0013785); ECF No. 90-13, Ex. 3 (Emails between Alec Peters and Mallory Levitt, PL0013787-PL0013788); ECF No. 90-6, Ranahan Decl., ¶ 5, Ex. E (Gossett Tr. at 175:17-18). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
158.	<p>Peters stated in a podcast, "these are positions you find on professional productions. And we pride ourselves on being that, <u>and not being a fan film.</u>"</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 53, Ex. ZZ (transcript of podcasts), Ex. A (Peters tr. at 142:10-14).</p>	<p>Disputed.</p> <p>There were many instances in which Defendants did call their works "fan films." The distinction between "fan films" and "professional" films was made only to distinguish the quality of Defendants' Works. ECF No. 90-16, Peters Decl., Ex. 6 (Press Release); ECF Nos. 90-22, 94-7 Peters Decl., Ex. 12 (Emails between Alec Peters and Morgen Schneider, AX030370-AX030372); ECF No. 90-23, Ex. 13 (Axanar Facebook Post, AX035850); ECF No. 90-24, Ex. 14 (Axanar Tweet, AX035927); ECF No. 90-21, Ex. 11 (Star Trek Fan Film Flyer, PL0000106); ECF No. 90-19, Ex. 9 (Axanar Blog Post, PL0005718-PL0005720); ECF No. 90-20, Ex. 10 (Axanar Blog Post, PL0005973-PL0005989); ECF No. 90-18, Ex. 8 (Axanar Facebook Post, PL0008222); ECF Nos. 90-26, 94-9, Ex. 16 (Email from Marian Cordry to Holly Amos and John Van Citters, PL0008689); ECF No. 90-17, Ex. 7 (Axanar Facebook Post, PL0011822); ECF Nos. 90-25, 94-8 Ex. 15 (Emails among Bill Burke, John</p>

Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
		Van Citters, and Leslie Ryan, PL0012814-PL0012816); ECF Nos. 90-15, Ex. 5 (Email from Marian Cordry to John Van Citters, PL0013502- PL0013503); ECF No. 90-14, Ex. 4 (Peters Facebook Post, PL0013517); ECF Nos. 90-11, 94-4, Ex. 1 (Axanar Annual Report, Revised, 2015, PL0013763-PL0013785); ECF No. 90-13, Ex. 3 (Emails between Alec Peters and Mallory Levitt, PL0013787-PL0013788); ECF No. 90-6, Ranahan Decl., ¶ 5, Ex. E (Gossett Tr. at 175:17-18). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
159.	<p>Peters attempted to meet with Netflix to become a producer of Star Trek productions, attempted to trademark [REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 58, Ex. A (Peters tr. at 442:21-449:9); Ex. LL (Facebook message exchange between Terry McIntosh and Alec Peters); ¶ 59, Ex. E (McIntosh tr. at 20:23-22:15), ¶ 60, Ex. C (Gossett tr. at 126:10-128:14), Ex. MM (April 20, 2015 email exchange between Alec Peters and Christian Gossett); ¶ 65, Ex. A (Peters tr. at 234:11-25); ¶ 66, Ex. B. (Burnett tr. at 151:2-153:12), ¶ 67, Ex. PP (Axanar marketing plan), ¶ 68, Ex. QQ (printout from Axanarproductions.com).</p>	<p>Disputed [REDACTED]</p> <p>[REDACTED], Ex. A (Peters Tr., Vol. II at 447:5 - 448:25). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
160.	<p>Defendants plan [REDACTED]</p>	<p>[REDACTED] ters</p> <p>[REDACTED] I at 236:14-241-13) <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>



Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	<u>Supporting Evidence</u> Grossman Decl., ¶ 67, Ex. PP (Axanar marketing plan).	
161.	Mr. Peters' collaborator and the direc <sup>b</sup>  <u>Supporting Evidence</u> Grossman Dec., ¶ 77, Ex. B (Burnett tr. at 217:22-218:7); ¶ 78, Ex. C (Gossett tr. at 19:15-22:20); ¶ 79, Ex. A (Peters tr. at 455:24-456:16), Ex. OO (Facebook communication between Alec Peters and Terry McIntosh); ¶ 81, Ex. B (Burnett tr. at 32:6-33:1), ¶ 82 (Burnett tr. at 31:21-36:20); Ex. RR (Robert Meyer Burnett online posting).	Undisputed. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
162.	Mr. Peters crea  <u>Supporting Evidence</u> Grossman Decl., ¶ 79, Ex. A (Peters tr. at 455:24-456:16); ¶ 77, Ex. B (Burnett tr. at 217:22-218:7); ¶ 78, Ex. C (Gossett tr. at 19:15-22:20).	Disputed. Though Defendants hoped that their Works would lead to other work, Defendants made their Works because they love Star Trek. ECF Nos. 90-10, 94-3, Peters Decl., ¶ 16. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
163.	Mr. Burnett, the editor of <i>Prelude to Axanar</i> , and director of the full length 	Undisputed. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith


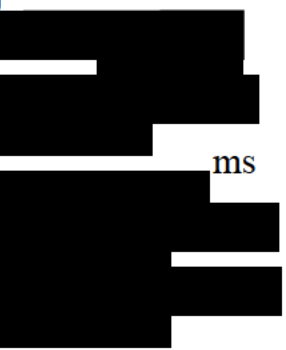
Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 82, Ex. B (Burnett tr. at 31:21-36:20), Ex. RR (Robert Meyer Burnett online posting)</p>	
164.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 65, Ex. A (Peters tr. at 234:11-25); ¶ 66, Ex. B (Burnett tr. at 151:2-153:12), ¶ 67, Ex. PP (Axanar marketing plan).</p>	<p>Disputed.</p> <p>[REDACTED]</p> <p><i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
165.	<p>In a post on Axanarproductions.com, Defendants stated: "The Axanar team is happy to announce that we have signed a lease on 16,000sf warehouse in Valencia, CA. The new home of Axanar Productions will be called 'Ares Studios'... We intend to turn this warehouse and office space into a fully functional sound stage. This will allow us to not only make 'Axanar' but other Star Trek projects after Axanar and other Sci-Fi projects.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 67, Ex. QQ (printout from Axanarproductions.com).</p>	
166.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p>	<p>Disputed.</p> <p>[REDACTED]</p> <p>-15. <i>See also</i> Evidentiary Objections to Grossman Decl. filed</p>

Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	Grossman Decl., ¶ 64, Ex. B (Burnett tr. at 142:14-148:8); ¶ 67, Ex. PP (Axanar marketing plan); Ex. QQ (printout from Axanarproductions.com).	concurrently herewith
167.	<p>Peters stated: "But Axanar is not just an independent Star Trek film; it is the beginning of a whole new way that fans can get the content they want, by funding it themselves. Why dump hundreds or thousands of dollars a year on 400 cable channels, when what you really want is a few good sci-fi shows?"</p> <p><b><u>Supporting Evidence</u></b> Grossman Decl., ¶ 49, Ex. A (Peters tr. at 99:10-100:15), Ex. DD (Axanar Indiegogo fundraising page).</p>	<p>Disputed.</p> <p>This statement is taken out of context. This statement was made to address how fans watch science fiction shows they enjoy, not how to stop fans from watching Plaintiffs' Works. <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith.</p>
168.	<p>The Star Trek Copyrighted Works are distributed via cable, among other channels of distribution.</p> <p><b><u>Supporting Evidence</u></b> Van Citters Decl., ¶ 11.</p>	Undisputed. <i>See</i> Evidentiary Objections to Van Citters Decl. filed concurrently herewith
169.	<p>Mr. Peters stated in a press kit, "Axanar is a ground-breaking independent film that proves the idea that a studio doesn't need millions of dollars to produce a sci-fi feature with big-budget production values.").</p> <p><b><u>Supporting Evidence</u></b> Grossman Decl., ¶ 56, Ex. JJ (press kit), Ex. A (Peters tr. at 124:8-127:15).</p>	Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
170.	The continued production and distribution of the Axanar Works would cause irreparable harm to the market for Star Trek Copyrighted Works because	<p>Disputed.</p> <p>Neither Plaintiffs nor Defendants know of any fans who have stated that they would decline to watch Plaintiffs' Works because they watched Defendants' Works. ECF Nos. 90-10, 94-3,</p>

Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	<p>Star Trek fans will view the Axanar Works (and donate for the production of future works) instead of paying to view the Star Trek Copyrighted Works.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Van Citters Decl., ¶ 63.</p>	<p>Peters Decl., ¶ 31; ECF No. 75-16, Oki Decl., Ex. 14 (Paramount Pictures Corporation's Responses to Requests for Admission, Set Two, Response to Request for Admission Nos. 72-73); ECF No. 75-17, Oki Decl., Ex. 15 (CBS Studios Inc.'s Responses to Requests for Admission, Set Two, Response to Request for Admission Nos. 72-73); ECF Nos. 75-11, 77-4, Oki Decl., Ex. 9 (Van Citters Tr. at 94:8-95:7, 119:19-124:18); ECF Nos. 75-12, 77-5, Oki Decl., Ex. 10, O'Rourke Tr. at 60:22-61:5; 63:8-16. Li-A-Ping Decl., ¶ 4, Ex. 3 (Tregillis Report, ¶¶ 58-62); <i>See also</i> Evidentiary Objections to Van Citters Decl. filed concurrently herewith</p>
171.	<p>Peters was in charge of Axanar Productions' conduct and was responsible for the infringing conduct of Axanar Productions.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 86, Ex. C (Gossett tr. at 38:6-16; 161:14-23; 162:9-163:14); ¶ 84, Ex. A (Peters tr. at 55:21-58:9; 78:9-80:10), Ex. B (Burnett tr. at 94:16-95:4), Ex. FFF (email exchange), ¶ 87, Ex. E (McIntosh tr. at 52:12-20).</p>	<p>Undisputed. Li-A-Ping Decl., ¶ 3, Ex. 2 (O'Rourke tr. at 74:13-25; 75:17-8); <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
172.	<p>Peters is the president of Axanar Productions.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 83, Ex. A (Peters tr. at 182:1-2).</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
173.	<p>Peters was responsible for many of the creative decisions on the Axanar Works.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 84, Ex. B (Burnett tr. at 94:16-95:4), Ex. FFF (email exchange), ¶ 85, Ex. B (Burnett tr. at 201:19-202:11); ¶ 86, Ex. C</p>	<p>Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>



Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	(Gossett tr. at 38:6-16; 161:14-23; 162:9-163:14).	
174.	<p>Peters supervised and controlled Axanar Productions.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 83, Ex. A (Peters tr. at 60:6-61:2), ¶ 87, Ex. E (McIntosh tr. at 52:12-20), ¶ 84, Ex. B (Burnett tr. at 94:16-95:4), Ex. FFF (email [REDACTED])</p>	Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
175.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 88, Ex. A (Peters tr. at 9:21-23; 21:18-25).</p>	Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
176.	<p>In the years prior to Peters' creation of the Axanar Works, Peters sent several emails to CBS to report third parties whom Peters believed were using Plaintiffs' intellectual property without authorization.</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 89, Ex. TT (Peters e [REDACTED])</p>	Undisputed. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
177.	<p>[REDACTED]</p> <p><b><u>Supporting Evidence</u></b></p> <p>Grossman Decl., ¶ 23, Ex. A (Peters tr. at 57:1-58:25).</p>	<p>Disputed.</p> <p>Defendants sought to create works that were completely original and had never been seen before. ECF No. 48, Counterclaim at 24-25, ¶¶ 30-31; ECF No. 75-15, Oki Decl., Ex. 13 (Peters Tr., Vol. I at 85:7-23); ECF No. 75-7, Oki Decl., Ex. 5 (Burnett Tr. at 22:8-23:8; 202:12-203:4); ECF No. 75-20, Peters Decl., Ex. 1 (<i>Prelude to Axanar</i>). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith</p>
178.	Peters even ensured that [REDACTED]	Disputed. ECF Nos. 90-10, 94-3, Peters Decl.,

Fact No.	Moving Party's Alleged Additional Uncontroverted Facts	Moving Party's Reply to Opposition
	 <b><u>Supporting Evidence</u></b> Grossman Decl., ¶ 34, Ex. GGG is a true and correct copy of an (June 29, 2014 email exchange), Ex. A (Peters tr. at 384:8 -388:2).	¶¶ 8-9, ECF Nos. 88-2, 91-1, Grossman Decl., ¶ 13, Ex. A (Peters Tr., Vol. II at 360:12-361:11), ECF No. 75-19, Peters Decl., Ex. 1 ( <i>Prelude to Axanar</i> ). <i>See also</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith
179.	The average cost to make an episode in the final season of <i>Star Trek Enterprise</i> (Plaintiffs' most recent Star Trek Television Series) was between \$2.2 million and \$2.4 million. <b><u>Supporting Evidence</u></b> Van Citters Decl., ¶ 66.	An hour long Star Trek: Enterprise episode cost \$5 million. Li-A-Ping Decl., ¶ 6, Exs. 5-6 (Media discussing the cost per episode of Star Trek series)  The new Star Trek TV show reportedly has a \$6-7 million per episode budget. Li-A-Ping Decl., ¶ 6, Exs. 5-6 (Media discussing the cost per episode of Star Trek series)
180.	Neither J.J. Justin Lin  ms <b><u>Supporting Evidence</u></b> Grossman Decl., ¶ 101, Ex. KKK (Abrams tr. at 15:17-21; 39:19-40:12), Ex. LLL (Lin tr. at 13:22-25).	Undisputed in a manner that is immaterial to motion. <i>See</i> Evidentiary Objections to Grossman Decl. filed concurrently herewith

Dated: December 5, 2016

**WINSTON & STRAWN LLP**

By: /s/ Erin R. Ranahan

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